

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6970 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
KHEDA DISTRICT CO OPERATIVE MILK PRODUCERS' UNION LTD  
Versus  
SITALAPRASADSINH R RAJPUT  
-----

Appearance:

MR KM PATEL for Petitioner  
MR TR MISHRA for Respondent No. 1

-----  
CORAM : MR.JUSTICE S.D.PANDIT  
Date of decision: 22/06/98

ORAL JUDGEMENT

#. Rule. Mr. T.R.Mishra waives service of rule. The Kheda District Co-operative Milk Producers' Union has filed the present petition to challenge the award passed by the Labour Court, Nadiad in Reference No.90 of 1988 on 3rd June,1997.

#. The respondent Shri S.R.Rajput, while he was working with the present petitioner, one Chaturbhai Harijan made a complaint through Kheda Jilla General Mazdoor Mandal on 22nd February,1986 alleging that he had

borrowed Rs.700/- from the present respondent and between 14-5-81 to 20-6-81, he had paid Rs.1917/- towards principal of amount as well as interest but inspite of the same, the respondent was demanding Rs.2800/- and was holding out threats to him for non payment of said amount. On receiving the said complaint, the present petitioner chargesheeted the respondent and held a departmental inquiry against him. In the said inquiry, said Chaturbhai Harijan was examined. Similarly, the office bearer of the workers' union through whom complain was issued, was also examined. The present respondent had not participated in the said inquiry. The inquiry officer had submitted his report on 3-6-1987 holding that the respondent guilty of the charge levelled against him and ultimately on 14-12-87, the respondent was dismissed from the service.

#. Being felt aggrieved of the decision and order, the respondent raised industrial dispute. On account of raising of his industrial dispute, Reference No.90/88 was made to the Labour Court of Nadiad. The said reference was subsequently transferred to the Labour Court of Anand and was renumbered as Reference No.415 of 1992. The respondent had initially disputed the inquiry, though ultimately passed a pursis on 26th March,1997 saying that he was not challenging procedural aspect of the inquiry, but was challenging perversity of the finding recorded in the inquiry and was seeking to invoke jurisdiction under Section-11-A. The respondent gave his own evidence before the labour court and in his evidence, he had contended that as a matter of fact, said Chaturbhai Harijan had taken loan of Rs.2500/- from him. He had executed a document in his favour and as he has not returned the said amount, he had also filed suit in the civil court. He denied that he was doing any money lending business and he had also denied of giving any threats. He also deposed that he as the office bearer of rival Union, he has been wrongly involved in a false charge. Taking into consideration the material produced before labour court by the workman as well as the material which was made available during the departmental inquiry, the labour court came to the conclusion that the finding recorded by the inquiry officer that the respondent was doing money lending and that he was giving threat, was perverse finding. The labour court allowed the said reference but taking into consideration that the workman had attended the age of superannuation during the pendency of the reference, directed the present petitioner to give him full backwages till the date of his retirement.

#. Being felt aggrieved by said decision, the employer has come before this court.

#. This court is considering this petition under article 226 of the Constitution of India. It is settled law that this court cannot sit as the appellate court and cannot have any reappraisal of the material which was available before the labour court and record any finding contrary to the finding of the labour court unless this court finds that the finding of the labour court is perverse one.

#. Mr.K.M.Patel, learned advocate for the petitioner vehemently argued before me that it is not open for the labour court to interfere with the finding of the inquiry officer by taking into consideration the evidence produced by the workman before it and record any finding contrary to the inquiry officer. No doubt, it is a settled law that the labour court cannot sit as an appellate authority on findings of the inquiry officer and the labour court has to accept the finding of the inquiry officer unless the labour court finds the same to be illegal and perverse. Now, admittedly in this case, Chaturbhai Harijan, the original complainant had resigned about the two and half months prior the date of the complaint which was received by the employer. The complaint was received by the employer through labour [ union. The material on record also shows that there was rival labour union of the workmen of the present petitioner and the respondent was an office bearer of the rival labour union. The respondent had also deposed before the labour court that he had taken action against Chaturbhai before civil court for recovering loan of Rs.2500/- advanced by him to said Chaturbhai Harijan. The labour court also took into consideration the fact that except Chaturbhai Harijan, there was no other witness examined by Chaturbhai's Union or the management to show that there were other instances of lending money by the respondent to any other persons other than Chaturbhai Harijan. Now, if taking into consideration all these aspects and circumstances, if the labour court holds that the finding recorded by the inquiry officer that the respondent workman was carrying on money lending business, is perverse finding. It could not be said that such finding recorded by the labour court is perverse finding. Merely because a single instance of money lending is brought to light, it would not amount to doing money lending business. There was no material before the inquiry officer of showing any other instances of money lending except to Chaturbhai Harijan. Similarly, Chaturbhai Harijan had stated in his complaint and

deposition that he had taken loan of Rs.700/-, as against this, the respondent workman had deposed that the actual loan taken by Chaturbhai Harijan was Rs.2500/- and that statement was not challenged or disputed in his cross examination. Said Chaturbhai had not made any complaint to any office bearer of the industry or to any other authority or Union while he was in service. His complaint had come to light two months after his leaving the job and that too through the respondent's rival Union. Therefore, in these circumstances, if the labour court didn't accept the finding of the departmental inquiry officer of accepting the sole claim of Chaturbhai Harijan then it could not be said that by doing so, the labour court has committed any illegality or perversity so as to interfere with by exercising powers under Article 226. Therefore, in view of the above considerations, I hold that no interference is called for in the finding recorded by the labour court. The present petition deserves to be rejected and I accordingly reject the same with no order as to cost. Rule discharge.

Dt : 22-06-1998 (S.D.Pandit, J)